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MARCH 17, 2021

BY ECF

The Honorable Paul G. Gardephe (PGG)
United States District Court
Southern District of New York
500 Pearl Street
New York, New York 10007

Re: *United States v. Angel Lopez*, 4 Cr. 283 (PGG)

Dear Judge Gardephe:

On December 20, 2019, I was appointed to serve as counsel for Angel Lopez in regards to the violation of supervised release before the Court, I was also assigned to represent him in the new Southern District indictment, 19 Cr 862 before Judge Caproni. This letter motion is made to request that I be relieved as counsel for the matter before your Honor and for the appointment of conflict-free counsel for Angel Lopez.

Background

In 19 Cr. 862 Mr. Lopez was charged in a drug racketeering conspiracy as a member of the Latin King gang the “Black Mob”. Mr. Lopez was alleged to be a high ranking member and a central supplier in their Fentanyl and heroin operation.

Guilty Plea Pursuant to a Plea Agreement

On July 30, 2020, Angel Lopez pled guilty to his role in the indictment pursuant to a *non-cooperation* plea agreement. In the plea agreement, the parties agreed that because of Angel Lopez’ extensive criminal history he was deemed a career offender. The plea agreement had a guideline sentencing range of 360 months to Life imprisonment.

Sentencing In District Court

On March 16, 2021, Judge Valeriel A. Caproni imposed a sentence of 240 months to run consecutively with Mr. Lopez' state attempted murder plea in Bronx County.

Today I received an email from Mr. Lopez in which he made claims of ineffective assistance of counsel in my advocacy on his behalf regarding his guilty plea, as well as other allegations that create a conflict regarding my representation of him in the matter before your Honor. Under *Lopez v. Scully* 58 F.3d 38 (2d. Circuit 1995), I am unable to represent Mr. Lopez without conflict. In essence, Mr. Lopez has stated that counsel has tricked him into pleading guilty.

By raising this issue of ineffective counsel and claiming that I tricked him into pleading guilty, Angel Lopez has created an actual conflict of interest requiring the appointment of new CJA counsel to not only prosecute his direct appeal and the other collateral issues raised in his email to me, but he has also created an actual conflict regarding my representation of him in his violation of supervised release before your Honor.

Therefore, I hereby request to be relieved as counsel of record by this Court, and that defendant Angel Lopez be appointed new conflict-free CJA counsel. Thank you for the Court's time and consideration and time in this manner.

Respectfully,

Kenneth J. Montgomery

s/

Kenneth J. Montgomery

MEMO ENDORSED

Kenneth Montgomery's application to withdraw as counsel for Defendant Angel Lopez is granted. The Government is directed to arrange for the appointment of counsel pursuant to the Criminal Justice Act, 18 U.S.C. § 3006A. The April 6, 2021 hearing is adjourned to April 27, 2021 at 12:00 p.m.

SO ORDERED.

Paul G. Gardephe

Paul G. Gardephe
United States District Judge

March 19, 2021